

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DELAWARE AUDUBON SOCIETY,
CENTER FOR FOOD SAFETY, and
PUBLIC EMPLOYEES FOR
ENVIRONMENTAL RESPONSIBILITY,

Plaintiffs,

v.

Civil Action No. 06-223-GMS

Secretary, Department of the Interior, DALE
HALL, Director of United States Fish and
Wildlife Service, and UNITED STATES
FISH AND WILDLIFE SERVICE, an
administrative agency of the United States
Department of the Interior,

Defendants.

**MOTION TO ALLOW DEPARTMENT OF JUSTICE ATTORNEY TO
APPEAR WITHOUT LOCAL COUNSEL**

Pursuant to 28 U.S.C. §§ 515, 517 and 518, the United States respectfully moves this Court for an Order allowing Department of Justice Attorney, Ruth Ann Storey, to appear before this Court without local counsel. Additionally, the United States requests that Ms. Storey be provided with an electronic filing password so that she can remotely file pleadings with this Court. In support of this motion, the United States provides the following:

1. The statutes of the United States allow the Attorney General to send its attorneys to state and federal courts throughout the nation. See 28 U.S.C. § 515 (the Attorney General or any other officer of the Department of Justice may conduct any kind of legal proceeding which United States attorneys are authorized by law to conduct, whether or not he/she is a resident of the district in which the proceeding is brought); 28

U.S.C. § 517 (any officer of the Department of Justice may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State); 28 U.S.C. § 518 (The Attorney General may direct an officer of the Department of Justice to conduct and argue any case in a court of the United States in which the United States is interested). Thus, to the extent that Local Rule 83.5 of this Court requires that Department of Justice attorneys based in Washington, DC, associate with local counsel, it would appear to conflict with the above-referenced statutes. See Fed. R. Civ. P. 83(a)(1) (local rules must be consistent with Acts of Congress). Accordingly, the United States respectfully requests that, in this particular case, the Court waive the local counsel requirement of Local Rule 83.5.

2. In this matter, the Attorney General has assigned primary responsibility for this case to the Department's Environment and Natural Resources Division in Washington, DC. In turn, the Environment and Natural Resources Division has designated Ms. Storey as lead attorney.

3. Department of Justice attorney Ruth Ann Storey has already been admitted to this Court *pro hac vice*. As such, she has submitted to the disciplinary jurisdiction of this Court, and has certified that she is generally familiar with this Court's Local Rules. Additionally, Ms. Storey is an able and competent attorney. Ms. Storey graduated from the University of Utah School of Law in May of 1980. She is an active member of the State Bar of Utah. Ms. Storey has served as a Trial Attorney in the Environment and Natural Resources Division for the past 9 years. In that capacity, Ms. Storey has been the

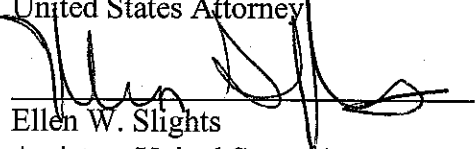
lead attorney in multiple federal cases. She has represented the interests of the federal government in oral arguments in the District of the District of Columbia, the District of West Virginia, and in the District of Alabama. Additionally, she has taken and defended many depositions. Ms. Storey has also filed briefs or otherwise appeared (in person or telephonically) in many federal courts including courts in California, Pennsylvania, and Georgia.

4. Counsel for the United States has communicated with opposing counsel, Kenneth T. Kristl, concerning the subject of this motion and he stated that he has no objection.

Accordingly, for the reasons set forth above, the United States respectfully requests that Department of Justice Attorney, Ruth Ann Storey, be allowed to appear before this Court without local counsel and that she be provided with an electronic filing password so that she can remotely file pleadings with this Court. A proposed order is attached hereto.

Dated: June 22, 2006

COLM F. CONNOLLY
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AFFIDAVIT OF SERVICE

I, Kathie Gray, an employee in the Office of the United States Attorney for the District of Delaware, hereby attest under penalty of perjury that on June 22, 2006, I electronically filed the foregoing **MOTION TO ALLOW DEPARTMENT OF JUSTICE ATTORNEY TO APPEAR WITHOUT LOCAL COUNSEL** with the Clerk of Court using ECF which will send notification of such filing(s) to the following:

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I hereby attest that on June 22, 2006, a copy of the above document was served, as indicated, upon the following non-registered participants:

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ORDER

UPON CONSIDERATION of the United States' motion to allow Department of Justice Attorney, Ruth Ann Storey, to appear without local counsel, the reasons stated therein, the lack of any opposition thereto, and the entire record herein, it is the ____ day of _____, 2006 hereby

ORDERED that the United States' motion should be and it hereby is granted; and it is,

FURTHER ORDERED that, for this matter only, Local Rule 83.5(d) is waived, and Department of Justice Attorney, Ruth Ann Storey, is not required to associate with local counsel nor is the United States Attorney's Office required to sign pleadings nor attend proceedings with her; and it is,

FURTHER ORDERED that the Clerk's Office provide Department of Justice Attorney, Ruth Ann Storey, with an Electronic Filing Log-In and Password so that she may file pleadings in this Court without the participation of the United States Attorney's Office.

UNITED STATES DISTRICT JUDGE